



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 4, 2014

Mr. Douglas A. Poneck
Counsel for the Workforce Solutions Capitol Area
Escamilla & Poneck, LLP
700 North St. Mary's Street, Suite 850
San Antonio, Texas 78205

OR2014-15623

Dear Mr. Poneck:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 535128.

Workforce Solutions Capitol Area ("Workforce"), which you represent, received a request for salary ranges for all contracted staff positions in the Workforce center and child care contracts. Workforce does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, we have received correspondence from C2 GPS Professional Services, LLC ("C2") objecting to the release of some of the information at issue under section 552.110 of the Government Code. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted arguments and information.¹

Initially, we note the only responsive information that was submitted to this office pertains to C2. We assume, to the extent any additional responsive information existed when Workforce received the request for information, Workforce has released it to the requestor. If not, then Workforce must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

¹We note Workforce did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, third-party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider whether the submitted information must be withheld under the Act on that ground.

C2 asserts the submitted information is excepted from disclosure under section 552.110(b) of the Government Code, which excepts from disclosure “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, substantial competitive injury would likely result from release of the requested information. *See* Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence release of information would cause it substantial competitive harm). The submitted information consists of salary range information of positions within C2. C2 asserts this information is the result of C2’s confidential analysis of market research of the positions at issue. C2 argues this information reflects C2’s strategies regarding pricing, customer preference, and marketing and its release would allow a competitor to undercut future proposals of C2. C2 also argues release of the information at issue would allow the information to be duplicated by C2’s competitors resulting in substantial competitive harm to C2. Upon review, we find C2 has established the release of the information at issue would cause it substantial competitive injury. Therefore, Workforce must withhold the submitted information under section 552.110(b) of the Government Code.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

²As our ruling is dispositive, we do not address C2’s other argument to withhold this information.

Ref: ID# 535128

Enc. Submitted documents

c: Requestor
(w/o enclosures)